REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested in view of the amendments made above and the remarks that follow.

The indicated allowability of claims 5-8 subject to being rewritten to include the subject matter of the base claim and any intervening claims is noted and appreciated. Claims 1, 3 and 5 have been rewritten in independent form as new claim 9. The subject matter of intervening claim 4 has not been included in claim 9, but has been incorporated instead in new claim 10, dependent from claim 9.

Claim 1 has been amended to more clearly define the invention. It is believed that this claim and the claims dependent therefrom clearly patentably and allowably distinguish over the art of record.

All of the patents cited in the Office Action of March 15, 2005, including the patent to Miller, disclose skimmer systems that are constructed so that one or more persons can move them across the surface of the water over the entire area of the pool to actively skim floating debris from the surface of the water. None of them is attached to the pool wall in stationary position across a skimmer opening to prevent debris from entering the opening.

None of the patents of record disclose or suggest a skimmer guard that is placed across a skimmer opening in stationary position, and that is flexible or bendable so that it can be adjusted to fit different size skimmer openings.

It is respectfully submitted that neither Miller nor any of the other patents of record teach the present invention, and it would not be obvious to combine them. There simply is no teaching or suggestion of the presently claimed structure and function in any of these references.

To anticipate a claim under 35 USC 102(b) each and every feature claimed must be found in the reference. If they are not, there is no anticipation.

To establish obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference

teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)

If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, or require a substantial reconstruction and redesign of the elements shown in the primary reference, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti*, 270 F.2d 810, 122 USPQ 349 (CCPA 1959).

It is respectfully submitted that the rejection of the claims either as anticipated by Miller, or as obvious in view of Miller, is improper and should be withdrawn and the claims allowed.

Respectfully submitted,
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